



Virginia Housing Commission

Proffers/Impact Fees Work Group

July 8, 2019, at 10:00 a.m.

Pocahontas Building, Senate Committee Room 1

dls.virginia.gov/commissions/vhc.htm

The Proffers/Impact Fees Work Group of the Virginia Housing Commission met in Richmond with Senator William M. Stanley, Jr, chair, presiding.¹ The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting are accessible through the [Commission's website](https://dls.virginia.gov/commissions/vhc.htm).

Residential Real Estate: A History of Conditional Zoning

Chip Dicks, Virginia Association of Realtors

Mr. Dicks stated that statutes on conditional zoning and special exceptions dealing with adjacent property rights were first enacted in the Code of Virginia in 1989. He stated that a nexus between the impact on the locality and the cash payments needs to be reasonably related to the slated development. The "need" was initially to be limited to traditional zoning, i.e., agricultural to residential use. A proffer may only be used for a rational use that includes capital improvements or to upgrade existing facilities; it may not be used for operational expenses. A nexus to the proffer must exist. Currently, there is a lack of consensus among localities about using impact fees or proffers. To date, only Stafford County off sets impact fees against the amount that has been proffered. Residential realtors would like for there to be no changes in Virginia's process until the impact of § 15.2-2286 has been determined through time.

Commercial Real Estate: Opinion of Industry Regarding Proffers/Impact Fees

Phillip Abraham, Virginia Association for Commercial Real Estate

The Virginia Association for Commercial Real Estate includes chapters in the urban crescent of Hampton Roads, Richmond, and Northern Virginia. Mr. Abraham said most studies show commercial real estate has a net-positive impact on the economy. Commercial real estate requires an adequate supply of residential housing. The commercial real estate industry is concerned about new taxes on residential areas as mixed-use development emerges as the preferred development style. Most mixed-use development is subject to the proffer requirements of a locality if the developer needs to re-zone for a change of use. Bi-right development has already taken into account impact fees, including the factors of where the money was spent, when it was generated, and how long it was held by the locality.

Mr. Abraham reported that commercial builders want more time to elapse before any changes to the Code of Virginia are made concerning proffers or impact fees.

¹ **Members Present:** William M. Stanley, Jr., Betsy B. Carr, Laura Lafayette, Philip Abraham, Claudia Arko, Andrew Clark, Tyler Craddock, Mary Ann Curtin, Kyle Flanders, Chip Dicks, Jeffery S. Gore, Michelle Gowdy, Eldon James, Martin Johnson, Gwen M. Kennedy, Adam R. Kinsman, Joe Lerch, John McGlennon, Christopher Sigler, Sarah Taylor, David C. Wescott, Jr., Morgan Wheyland, Jerri Wilson

Virginia Homebuilders: Which Development Tools Are Most Effective for Homebuilders and Developers

Andrew Clark, Home Builders Association of Virginia

Mr. Clark noted that current legislation has brought the 2016 legislation (SB 549) to a more moderate, consensus common ground. "Request" or "suggest" has replaced "require," which will open lines of communication between planning departments and localities. Eventually, localities should pick between having a proffer system or an impact fee system. Ideally, there should be an oversight committee that is a neutral third party arbiter to determine fairness in proffers or impact fees. At this juncture, the parties present at today's meeting should monitor the approval of developments and requested concessions. Localities should provide tools for the homebuilders to offer a diversity of housing stock and affordable housing.

Planners' Perspective on Impact Fees/Proffers in the Commonwealth

George Homewood, American Planning Association, Virginia Chapter

Mr. Homewood reported that use of impact fees offers more clarity for both commercial and residential use. It should be noted that there are also non-cash proffers such as those for architectural style. Impact fees can be used to generate leverage for grant funds, such as providing a fee waiver to serve as a locality's match for federal funding. There should be an enabling of localities, not requirements to adopt certain tools.

Coalition of High Growth Communities: Discussion Points

Jeffery Gore, Coalition of High Growth Communities

Mr. Gore said that infrastructure needs are a concern throughout the Commonwealth. Tools need to be flexible—there should not be proffers only or impact fees only; the system should allow for a locality to make projects viable by using the best development tools. Individual localities and communities need to be able to retain the right to address non-cash proffer authority.

Discussion and Next Meeting

Members of the work group, as one entity, expressed their wish for Virginia to build more affordable housing (and localities to offer incentives for the construction of affordable housing), zoning, and Affordable Dwelling Units (ADUs). All of the items concerning affordable housing should be the legislation focus of the Virginia Housing Commission this interim. This work group will meet again next year if needed to monitor the effect of the 2019 legislation regarding proffers and impact fees, most notably in response to changes to § 15.2-2286.

For more information, see the [Commission's website](#) or contact the Division of Legislative Services staff:

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